

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 01-3529

STEVEN L. ROMANSKY, Appellant

v.

CONNER BLAINE, Jr.

On Appeal from the United States District Court
for the Middle District of Pennsylvania
(D.C. Civil No. 00-cv-01520)

District Judge: The Honorable Sylvia H. Rambo

Before: NYGAARD and GARTH, Circuit Judges.
and POLLAK, * District Judge.

O R D E R

NYGAARD, Circuit Judge.

Insofar as the parties now agree that the Petitioner was in custody at the time he filed his habeas petition, we agree that the Petitioner has now established jurisdiction, the determination of which had been referred to us by the Motions Panel (May 6, 2004); this

*Honorable Louis H. Pollak, Senior District Judge for the United States District Court for the Eastern District of Pennsylvania, sitting by designation.

being so, the Petitioner's Motion for Remand is granted¹ and, this matter is summarily remanded to the District Court for proceedings to supplement the record.

This order is without prejudice to Petitioner's filing a motion to amend the habeas petition to allow additional claims based upon the audiotape evidence.

The appeal is dismissed without prejudice to the filing of a new appeal after the proceedings by the District Court on remand.

All other pending motions are dismissed as moot and without prejudice to renewal in the District Court.

IT IS SO ORDERED.

/s/ Richard L. Nygaard
Circuit Judge

DATED: January 6, 2005
tyw/cc: Mary Gibbons, Esq.
Andrea F. McKenna, Esq.

1. The Petitioner's Motion for Remand is to allow augmentation of the record and for an opportunity to make a showing of entitlement to amend his petition for relief pursuant to 28 U.S.C. § 2254.

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Certified as a true copy and issued in lieu
of a formal mandate on 28 January 2005



Teste:
Clerk, U.S. Court of Appeals for the Third Circuit